


Remarks

MPEP §1207 permits an examiner only three options after an Appeal Brief has been filed: allow the application, submit an Answer, or reopen prosecution *but only with the SPE's approval*. "Sending another office action in order to correct an error" (page 2 of Office Action, line 6) without SPE approval is not permitted by the MPEP. Compliance by the PTO with its own manual is not only expected but required.

The Office Action, using an exceptionally broad and probably illegitimate claim construction, appears to argue that only a single one of the claimed user-defined attributes - "means for delivery" - is in Rakavy. This attribute has been removed from the claims. Accordingly, since none of the remaining attributes have been identified in the applied references, implicitly conceding Appellant's point that they are not there and in any case failing to give Appellant any notice of why the claims might continue to be rejected after this amendment, an allowance is now expected.

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